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UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re:

DELPHI CORPORATION, et al.,

Debtors.

Case No. 05-44481-rdd

Chapter 11

Judge Robert D. Drain

(Jointly Administered)

**OHIO BUREAU OF WORKERS' COMPENSATION'S RESPONSE TO
DEBTORS' THIRTY-FOURTH OMNIBUS OBJECTION TO CLAIMS**

The Ohio Bureau of Workers' Compensation ("BWC"), through Ohio Attorney General Richard Cordray, hereby responds to Debtors' Thirty-Fourth Omnibus Objection to Claims (Doc. # 17182) filed on June 22, 2009 . Debtors assert that claims no. 1294 filed by BWC in the amount of \$24,732,628.02 as a priority claim and claim no. 1301 filed by BWC in the amount of \$39,610,402.53 should be classified as general unsecured claims.

Debtors take the position that BWC's claims are not excise taxes and thus are not entitled to priority classification pursuant to section 507(a)(8) of the Bankruptcy

Code. The claims are for self insurance workers' compensation obligations. The self insurance assessments and payments for prepetition injuries are considered excise taxes pursuant to section 507(a)(8)(E) of the Bankruptcy Code and may thus be classified as priority claims. In re Olga Coal, 194 B.R. 741 (S.D.N.Y. Bankr 1996). Debtors have continued to conduct business in Ohio as self-insured employers. In order to continue as a self-insuring employer upon reorganization, Debtors will be required to comply with the requirements of Ohio Revised Code §4123.35.

WHEREFORE, Debtors objection should be overruled and BWC's claims should be allowed as filed.

Dated: July 16, 2009

RICHARD CORDRAY
Ohio Attorney General

/s/ Victoria D. Garry
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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the *OHIO BUREAU OF WORKERS' COMPENSATION'S RESPONSE TO DEBTORS' THIRTY-FOURTH OMNIBUS OBJECTION* was served electronically on the following registered ECF participants,

electronically through the Court's transmission facilities at their email addresses registered with the Court on this 16th day of July, 2009 upon the parties listed below.

RICHARD CORDRAY
Ohio Attorney General

/s/ Victoria D. Garry _____
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